



Laws

Alabama Severance Tax Laws pertaining to Oil & Gas, Coal, Forest Products and Iron Ore are administered by the Severance Tax Section of the Alabama Department of Revenue. Producers and purchasers of oil & gas, coal and iron ore are required to file monthly reports while producers of forest products are required to file quarterly.

These taxes are set forth in the Code of Alabama 1975 under Title 40, Chapters 12, 13, and 20 and Title 9, Chapters 13 and 17. Oil & Gas severed in Baldwin County is subject to a 1% privilege tax levied by Act 2120.

The following Alabama Severance Taxes Laws include all amendments through the 1998 Session of the Alabama Legislature.

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Chapter 20
OIL AND GAS
Privilege Tax on Production
Article1

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§ 40-20-1
Definitions

For the purpose of this article, the following terms shall have the respective meanings ascribed by this section:

- (1) **Department.** The State Department of Revenue.
- (2) **Annual.** The calendar year or the taxpayer's fiscal year, when permission is obtained from the department to use a fiscal year as a tax period in lieu of a calendar year.
- (3) **Value.** The sale price or market value at the mouth of the well. If the oil or gas is exchanged for something other than cash, if there is no sale at the time of severance or if the relation between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the department shall determine the value of the oil or gas subject to the tax hereinafter provided for, considering the sale price for cash of oil or gas of like quality.
- (4) **Oil.** Crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the well.
- (5) **Gas.** All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subdivision (4) above.
- (6) **Severed.** The extraction or withdrawing from the soil or water or from below the surface of the soil or water of

any oil or gas, whether such extraction or withdrawal shall be by natural flow, mechanically enforced flow, pumping, or any other means employed to get the oil or gas from the soil or water or from below the surface of the soil or water.

(7) **Person.** Any natural person, firm, copartnership, joint venture, association, corporation, estate, trust, and any other group or combination acting as a unit, and the plural as well as the singular number.

(8) **Producer.** Any person engaging or continuing in the business of oil or gas production, which, for the purpose of this article, includes the owning, controlling, managing, or leasing of any oil or gas property or oil or gas well, and producing in any manner any oil or gas by taking it from the soil or waters, or from beneath the soil or waters, of the State of Alabama, and further includes receiving money or other valuable consideration as royalty or rental for oil or gas produced or because of oil or gas produced, whether produced by him or by some other person on his behalf, either by lease, contract or otherwise, and whether the royalty consists of a portion of the oil or gas produced being run to his account or a payment in money or other valuable consideration.

(9) **Submerged lands.** All lands within the territorial jurisdiction of the State of Alabama that are continuously or intermittently covered by marine or marine influenced waters and are below the mean high tide mark on all islands and land adjacent to the Mississippi Sound, Mobile Bay, Bon Secour Bay, Wolf Bay, Arnica Bay, Bay La Launch, and Perdido Bay; and excludes all areas upstream of the confluence of the Mississippi Sound, Mobile Bay, Wolf Bay and Perdido Bay with their natural tributaries.

(10) **Offshore drilling or production facilities.** Barges, platforms or other drilling or production facilities located on submerged lands to drill or to produce oil or gas.

(11) **Offshore production.** Gas or oil produced from offshore drilling or production facilities from wells located on submerged lands to drill or to produce oil or gas.

(12) **Discovery well.** Any well capable of producing oil and/or gas from a single pool in which a well has not been previously completed as a well capable of producing.

(13) **Development wells.** All oil and/or gas producing wells other than discovery wells and replacement wells.

(14) **Onshore well.** Any oil or gas well that is drilled in an area other than submerged lands as defined herein.

(15) **Replacement wells.** A well drilled on a drilling and/or production unit to replace another well which is drilled in the same unit and completed in the same pool.

(16) **Commenced.** A well shall be deemed to have commenced when the well is spudded.

(17) **Completion.** A well shall be deemed to be completed for purposes of this article when drilling and logging operations have ceased.

(18) **Pool.** As used herein, pool shall mean a single underground reservoir containing a common accumulation of oil or gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is a single pool as that term is used herein.

(19) **Enhanced recovery project.** An oil or gas recovery project which is approved by the State Oil and Gas Board of Alabama employing one or more of the following methods:

a. Recycling, injecting or flooding a pool, or pools, or portion thereof, with air, gas, water, hydrocarbons, carbon dioxide (CO₂), or any other substance, or any combination or combinations thereof; or

b. The use of polymers, steam flooding or fire flooding.

(20) **Supplemental enhanced recovery project.** An enhanced recovery project in which injection of substances into a unitized area was initiated prior to January 1, 1985, and thereafter is improved by expanding or otherwise changing the unit operations associated with the project as approved by the State Oil and Gas Board of Alabama for the purpose of increasing the ultimate recovery of hydrocarbons.

(21) **Incremental oil or gas production.** The amount of oil or gas which will be produced as a result of a qualified enhanced recovery project and which is in excess of the amount of oil or gas which could have been produced

economically and efficiently from a pool or pools or portion thereof by production methods being utilized prior to said qualified enhanced recovery project being approved by the State Oil and Gas Board of Alabama.

(22) **Qualified enhanced recovery project.** A qualified enhanced recovery project shall mean an enhanced recovery project or supplemental enhanced recovery project that meets all of the following criteria:

- a. That the area where the enhanced recovery project or supplemental enhanced recovery project is employed has been unitized in accordance with the provisions of Article 3, Chapter 17 of Title 9, as amended.
- b. That injection of substances associated with the enhanced recovery project or supplemental enhanced recovery project has been or will be implemented as an integral part of the operations of the unitized area.
- c. That the enhanced recovery project or supplemental enhanced recovery project be certified by the State Oil and Gas Board of Alabama as capable of incremental oil or gas production.
- d. That the enhanced recovery project or supplemental enhanced recovery project be implemented on or after January 1, 1985.

History: Acts 1984, No. 84-328; Acts 1985, 2nd Ex. Sess., No. 85-911.

Related statutes. Acts 1984, No. 84-699: Designation of Acts 1984, No. 84-328 as the "Onderdonk-Foshee Act."

Cross references. This law is referred to in: 40-20-2. Public utilities other than transportation and motor vehicle, generally, § 37-4-1 et seq.

§ 40-20-2 Levy and Amount of Tax Upon Business of Producing or Severing Oil or Gas From Soil, etc., Generally

(a)

(1) There is hereby levied, to be collected hereafter, as herein provided, annual privilege taxes upon every person engaging or continuing to engage within the State of Alabama in the business of producing or severing oil or gas, as defined herein, from the soil or the waters, or from beneath the soil or the waters, of the state for sale, transport, storage, profit or for use. The amount of such tax shall be measured at the rate of eight percent of the gross value of said oil or gas at the point of production except as provided in subsequent subdivisions of this subsection.

(2) Effective May 1, 1985, and thereafter, the incremental oil or gas production produced during a given year resulting from a qualified enhanced recovery project shall be taxed at the rate of four percent of gross value at the point of production of said incremental oil or gas production. The State Oil and Gas Board of Alabama shall approve the qualified enhanced recovery project and the determination of the projected annual oil or gas production that could have otherwise been produced without the benefit of the initiation of said qualified enhanced recovery project at a hearing held pursuant to **Section 9-17-7**, as amended, and shall notify the Alabama Department of Revenue thereof.

(3) All wells producing 25 barrels or less of oil per day or producing 200,000 cubic feet or less of gas per day shall be taxed at the rate of four percent of gross value of said oil or gas at the point of production.

(4) All oil and gas produced from onshore discovery wells, all oil and gas produced from onshore development wells on which drilling commenced within four years of the completion date of the discovery well and producing from a depth of 6,000 feet or greater, and all oil and gas produced from onshore development wells on which drilling commenced within two years of the completion date of the discovery well and producing from a depth less than 6,000 feet shall be taxed at a rate of six percent of the gross value of said oil and gas at the point of production for a period of five years from the date production begins from said discovery and development wells, provided, that all production to receive a six percent tax rate, which is produced from discovery wells, must be from discovery wells permitted by the State Oil and Gas Board of Alabama after July 1, 1984, and that all production to receive a six percent tax rate from development wells on which drilling commenced within the required time of completion of a discovery well, which was permitted after July 1, 1984, and said development well must also have been permitted after July 1, 1984; provided however, that the six percent tax rate applicable to a

discovery well or development well shall be applicable to any replacement well drilled to replace the discovery well or the development well during the six percent five-year, tax rate period for only the remainder of the said tax rate period.

(5) All oil or gas produced by offshore production, as defined herein, at depths greater than 18,000 feet below mean sea level, shall be taxed at the rate of six percent of the gross value of said oil or gas production at the point of production.

(6) [Expired: Acts 1984, No. 84-672. See related statutes note.]

(7) For any well for which the initial permit issued by the Oil and Gas Board is dated on or after July 1, 1988, except a replacement well for a well for which the initial permit issued by the Oil and Gas Board is dated before July 1, 1988, the rates provided in subdivisions (1) and (5) of this subsection shall be reduced by 2 percent.

(8) For any well for which the initial permit issued by the Oil and Gas Board is dated on or after July 1, 1996, and before July 1, 1999, except a replacement well for a well for which the initial permit issued by the Oil and Gas Board is dated before July 1, 1996, the applicable rate shall be reduced by 50 percent for a period of five years commencing with commercial production after which subdivision (7) shall apply.

(b) The tax is hereby levied upon the basis of the entire production in this state, including what is known as the royalty interest, on which production the amount of such tax shall be a lien, regardless of the place of sale or to whom sold, or by whom used, or the fact that the delivery may be made to points outside the state; and the tax shall accrue at the time such oil or gas is severed from the soil or the waters, or from beneath the soil or the waters, and in its natural, unrefined or unmanufactured condition. Provided, however, that natural gas lawfully injected into oil or gas pools or reservoirs in the soil or beneath the soil or waters of the State of Alabama is exempt from this tax. Provided, further, that natural gas lawfully injected into the earth for the purpose of lifting oil or gas in the State of Alabama is exempt from this tax. However, if any gas so injected into the earth is sold for such purposes or injected into underground storage facilities as defined in **Section 9-17-150** et seq., then the gas so sold or injected shall not be exempt from this tax. Natural gas lawfully vented or flared in connection with the production, treatment, or processing of oil or gas is exempt from this tax.

(c) A county, city, town or municipality of the State of Alabama shall not establish, levy, impose or collect, as a condition of doing business or otherwise, any tax, fee, license or charge whatsoever, directly or indirectly, on or with respect to the production, treating, processing, ownership, sale, storage, purchase, marketing or transportation on any oil or gas produced in the State of Alabama and on which severance taxes have been paid to the State of Alabama, or upon the business of producing, treating, processing, owning, selling, buying, storing, marketing or transporting such oil or gas, or upon the ownership, operation or maintenance of plants, facilities, machinery, pipelines, gathering lines or any equipment whatsoever, which are, or may be, necessary or convenient to the production, treating, processing, ownership, storage, sale, purchase, marketing or transportation of such oil or gas; provided, that nothing herein shall be construed to prohibit, limit or restrict a county, city, town or municipality from imposing and collecting ad valorem taxes on any property, real or personal, not otherwise now exempted by law; further, the limitation herein imposed upon counties, cities, towns and municipalities shall not apply to any county, city, town or municipality which does not receive a share of the severance tax levied upon production other than offshore production as defined in **Section 40-20-1** under the provisions of this article. Said limitation herein imposed upon counties, cities, towns and municipalities shall remain in full force and effect in regard to offshore production as defined in **Section 40-20-1**.

(d) Nothing contained herein shall be deemed to limit or to enlarge the authority of a county, city, town or municipality to levy taxes or licenses on oil refining facilities located therein or on the suppliers of services or goods not including oil or gas to those persons engaging in the business of producing, treating, processing, owning, selling, buying, storing, marketing or transporting such oil or gas. Provided, however, no such taxes or licenses shall be levied on offshore drilling or production facilities as defined in **Section 40-20-1**.

(e) In all cases of production of oil from unit operations as authorized and approved by the State Oil and Gas Board of Alabama, for purposes of computing the per well production aforesaid, the aggregate production of oil from the entire unit shall be divided by the number of wells within the unit, including injection, disposal and other wells utilized in unit operations, and the quotient thereof shall be deemed and declared to be the number of barrels of oil produced from each well in such unit regardless of the actual amount of oil per day produced from the well, if any.

History: Acts 1979, No. 79-434; Acts 1980, No. 80-708; Acts 1983, 1st Ex. Sess., No. 83-39; Acts 1984, No. 84-328, 660; Acts 1984, 1st Ex. Sess., No. 84-672; Acts 1985, 2nd Ex. Sess., No. 85-911; Acts 1988, No. 88-601; Acts 1994, No. 94-367; Acts 1996, 2nd Ex. Sess., No. 96-877.

Effective. Acts 1996, 2nd Ex. Sess., No. 96-877, effective July 30, 1996.

1996, 2nd Ex. Sess., amendments. Added subdivision (a)(8).

Related statutes. Acts 1984, No. 84-699: Designation of Acts 1984, No. 84-328 as the "Onderdonk-Foshee Act."

Acts 1988, No. 88-601, § 1: Citing of Acts 1988, No. 88-601 as the "John B. 'Johnny' Johnson Act."

Acts 1984, No. 84-672, § 2: "The Provisions of this amendatory act shall expire [on June 7, 1994] and said provisions shall be void and have no further effect."

Cross references. This law is referred to in: 40-20-8.

§ 40-20-3

Tax Levied Upon Producers in Proportion to Ownership At Time of Severance; By Whom Tax Paid; Lien

(a) The privilege tax hereby imposed is levied upon the producers of such oil or gas in the proportion of their ownership at the time of severance, but, except as otherwise herein provided, the tax shall be paid by the person in charge of the production operations, who is hereby authorized, empowered, and required to deduct from any amount due to producers of such production at the time of severance the proportionate amount of the tax herein levied before making payments to such producers. The tax shall become due and payable as provided by this article and such tax shall constitute a first lien upon any of the oil or gas so produced when in the possession of the original producer or any purchaser of such oil or gas in its unmanufactured state or condition. In the event the person in charge of production operations or the purchaser fails to pay the tax, then the department shall proceed against the producer or the purchaser to collect the tax in the manner hereinafter provided by this article.

(b) When any person in charge of production operations shall sell the oil or gas produced by him, the purchaser shall account for the tax.

(c) When any person in charge of production operations shall use or dispose of the oil or gas for fuel or any other purpose, he shall withhold the tax imposed by the article; and, if he is required to pay other interest holders, he is hereby authorized, empowered, and required to deduct from any amounts due them the amount of tax levied and due under the provisions of this article before making payment to them.

(d) Every person in charge of production operations by which oil or gas is severed from the soil or waters, or from beneath the soil or waters, of the State of Alabama who fails to deduct and withhold, as required herein, the amount of tax from sale or purchase price, when such oil or gas is sold or purchased under contract or agreement, or on the open market, or otherwise, shall be liable to the state for the full amount of taxes, interest and penalties due the state; and the department shall proceed to collect the tax from the person in charge of production operations, under the provisions of this article, as if he were the producer of the oil or gas.

Cited in Eagerton v. Exchange Oil & Gas Corp. **404 So. 2d 1** (Ala. 1981); Exxon Corp. v. Eagerton 462 U.S. 176, 103 S. Ct. 2296, 76 L. Ed. 2d 497 (1983); Sutton v. Escambia County Bd. of Educ. 809 F.2d 770 (11th Cir. 1987).

§ 40-20-4

Enforcement of Article; Collection of Taxes; Statements to be Filed and Records Kept; Inspection of Records; Hearings and Compelling Attendance of Witnesses; Rules and Regulations

(a) The department is hereby authorized and directed to administer and enforce the provisions of this article and to collect all of the taxes levied under the provisions hereof. Every person producing or in charge of production of oil and gas shall file a return with the department by the 15th day of the second calendar month following the month of production, on forms the department prescribes which must contain a printed declaration that the information being reported is made under the penalty of perjury, and which must be subscribed by the person who completes such forms, showing the location of each producing property operated or controlled by such producer during the reporting period; the number and kind of wells thereon; the kind of oil or gas produced; the gross quantity thereof produced; the actual cash value thereof at the time and place of production; including any and all premiums received from the sale thereof; the amount of tax due on the total gross production; the portion of gross production payable as royalty and such other information as the department may require.

(b) All persons engaged in the business of severing oil or gas are hereby required to keep full and complete records showing the nature, character, and volume of all such oil or gas severed, the value of such oil or gas at the point

of production, the manner in which such oil or gas was disposed of, the prices or the consideration received for the sale thereof and the quantity or volume of such oil or gas stored anywhere within or without the State of Alabama; and such records shall at all reasonable times be open for inspection by representatives or agents of the department.

(c) The department or its duly authorized representative or agent shall have the power and authority to inspect all records required to be kept under the provisions of this article, to conduct hearings and to compel the attendance of witnesses for the purpose of determining the amount of taxes due under the terms and provisions of this article.

(d) The Department of Revenue is hereby authorized to promulgate reasonable rules and regulations relating to the administration and enforcement of this chapter, provided, however, that no rule or regulation adopted or promulgated by the department shall alter, limit, extend or be out of harmony with any of the provisions of this chapter.

History: Acts 1991, 1st Ex. Sess., No. 91-798.

Cited in State v. Phillips Petro. Co. 638 So. 2d 880 (Ala. Civ. App. 1991).

§ 40-20-5
When Reports to be Filed;
Payments to Accompany Reports

All reports required under the provisions of this article shall be filed with the department on or before the fifteenth day of the second calendar month following the month of production and shall cover the second preceding calendar month. All producers are hereby required to pay to the department all taxes accruing under the provisions of this article for the period of time covered by the report herein required, and such payment shall accompany the required report.

§ 40-20-7
Deduction of Appropriation for Expenses of Department

Such amount of money as shall be appropriated for each fiscal year by the legislature to the Department of Revenue with which to pay the salaries, the cost of operation and the management of the said department shall be deducted, as a first charge thereon, from the taxes collected under and pursuant to this article; provided, that the expenditure of said sum so appropriated shall be budgeted and allotted pursuant to Article 4 of Chapter 4 of Title 41, and limited to the amount appropriated to defray the expenses of operating said department for each fiscal year. The net remainder shall remain in the State Treasury for distribution as hereinafter provided.

§ 40-20-8
Allocation and Distribution of Net Taxes Collected; Property Which
Consists of Submerged Lands and Onshore Lands; Onshore Lands Defined;
Applicability of Section; Final Determination Establishing Allocation Base

(a) Ninety percent of the net amount of all taxes herein levied and collected by the department on oil or gas produced from submerged lands as herein defined shall be deposited to the state general fund. The remaining 10 percent on such net amount shall be allocated and distributed by the comptroller to the county in which the oil or gas was produced for county purposes or to be expended at the discretion of the county governing body.

(b) Twenty-five percent of the net amount of all taxes herein levied and collected by the department except as provided herein in subsection (a) shall be deposited by the department to the general fund of the state.

(c) Sixty-six and two-thirds percent of the remaining 75 percent of all taxes herein levied and collected by the department, after the same has been certified into the State Treasury, shall be allocated and distributed by the comptroller to the credit of the general fund of the state and to the county in which the oil or gas was produced and to the municipalities therein in the proportion set out in the following schedule:

(1) Twenty-five percent of all taxes herein levied and collected on oil and gas produced from oil or gas wells located within any county, shall be allocated and distributed to each such county for county purposes or to

be expended at the discretion of the county governing body. In all counties having a population of not less than 34,875 nor more than 36,000, according to the 1970 Federal Decennial Census, such funds shall be allocated and distributed by the counties to the boards of education of the public schools in such counties on a prorata basis as established by the number of children in net enrollment in the public schools during the prior school attendance year. In all counties having a population of not less than 16,000 nor more than 16,250, according to the 1970 Federal Decennial Census, such funds shall be allocated and distributed by the counties as follows: Each year the first \$150,000 shall be paid to the custodian of the county school funds, and after the payment of said \$150,000 each year, the balance of said funds shall be divided and paid one-third to the custodian of the county school funds and two-thirds to the county general funds.

(2) Ten percent of all taxes herein levied and collected on oil and gas produced from oil or gas wells located within the corporate limits or the police jurisdiction of any municipality shall be allocated and distributed to each such municipality; except that all wells within the corporate limits of police jurisdiction of any municipality where taxes are levied and collected at a rate of four percent, 10 percent of all said four percent taxes shall be distributed to each such municipality.

(3) Fifty percent of the first \$150,000 remaining, or any part thereof, collected per year under the provisions of this article, shall be allocated and distributed to the state, 42 1/2 percent to the county and seven and one-half percent to municipalities therein on a population basis.

(4) Eighty-four percent of all remaining sums collected per year under the provisions of this article shall be allocated and distributed to the state, 14 percent to the county and two percent to municipalities therein on a population basis.

(d) Sixteen and two-thirds percent of the remaining 75 percent of all taxes herein levied and collected by the department shall be certified into the State Treasury to the credit of the state general fund.

(e) Sixteen and two-thirds percent of the remaining 75 percent of all taxes herein levied and collected by the department on oil and gas produced from oil or gas wells located within any county shall be allocated and distributed to each such county for county purposes, to be expended at the discretion of the county governing body.

(f) For the purposes of this section, when part of the property within the drilling or production unit or within the unit area for any producing well(s) consists of submerged lands and part consists of lands other than submerged lands (herein called onshore lands), the following shall apply:

(1) Only that portion of production (oil or gas or both) from said well(s) allocated (under or pursuant to an order of the State Oil and Gas Board) to the submerged lands shall be deemed to have been produced from submerged lands, regardless of where the actual well(s) from which said production was obtained is (are) located;

(2) The portion of said production allocated (under or pursuant to an order of the State Oil and Gas Board) to the onshore lands shall be deemed to have been produced from a well located on the onshore lands to which such production is allocated, and the portion of said production allocated (under or pursuant to such an order) to any onshore lands located within the police jurisdiction or the corporate limits of any municipality shall be deemed to have been produced from a well located within said corporate limits or police jurisdiction;

(3) If, because of common ownership or otherwise, no specific portion of the production from said well(s) has been separately allocated (under or pursuant to an order of the State Oil and Gas Board) to any or all of the onshore lands located within said drilling or production unit or within a designated tract in said unit area, then, for the purposes of this section, a portion of said production shall be deemed to have been allocated (under or pursuant to such an order) to the onshore lands in question, such portion to be in the proportion that the acreage of said onshore land to which no specific portion of the production has been separately allocated bears to the total acreage included within the unit or designated tract (whichever is applicable); and

(4) Any production not allocated to or deemed to have been allocated to the onshore lands shall be deemed to have been allocated (under or pursuant to an order of the State Oil and Gas Board) to the submerged lands.

(g) Anything herein to the contrary notwithstanding, onshore lands shall mean all lands that are not submerged lands (as elsewhere herein defined); provided, however, if any submerged lands are located within the police jurisdiction or corporate limits of any municipality, those submerged lands shall, for the purposes of this section, be defined as, and

deemed to be, onshore lands and not submerged lands.

(h) The provisions of this section shall apply only to the allocation and distribution of taxes and shall not apply to the levy and collection of taxes; and nothing contained in this section shall be construed to affect in any way the provisions of **Section 40-20-2**.

(i) A final determination establishing the allocation base shall be made within 90 days of April 23, 1990.

History: Acts 1984, No. 84-662; Acts 1990, No. 90-652.

Cited in Eagerton v. Exchange Oil & Gas Corp. **404 So. 2d 1** (Ala. 1981); Eagerton v. Terra Resources, Inc. **426 So. 2d 807** (Ala. 1982); Union Oil Co. v. Eagerton **426 So. 2d 814** (Ala. 1982); Eagerton v. Exchange Oil & Gas Corp. **440 So. 2d 1031** (Ala. 1983); Chandler v. Lamar County Bd. of Educ. **528 So. 2d 309** (Ala. 1988).

§ 40-20-9

Reports to be Made on Blanks Furnished by Department; Certificate and Verification Required

All reports required to be filed under the provisions of this article shall be made on blanks, furnished by the department, which shall contain the following certificate: "I hereby certify under oath that I am duly authorized to make this tax return; that the information herein contained is true and correct and same is shown by the records of the identified producer; and that the amount of taxes accompanying this return is the true and correct amount of taxes due the State of Alabama by this producer." The same must be duly verified.

§ 40-20-11

Enjoining Violation of Article

If it is brought to the attention of the department that any producer is guilty of violating any of the provisions of this article, the department is hereby authorized and required, through lawfully authorized counsel, to proceed in the courts of the state to obtain a writ of injunction, which writ shall be granted by the court when applied for in the manner prescribed by law. The department, however, is hereby relieved of the requirement to furnish bond of any character.

§ 40-20-12

Exemption From Ad Valorem Taxes

(a) All oil or gas produced, all leases in production, including mineral rights in producing properties, and all oil or gas under the ground on producing properties within the State of Alabama shall be exempt from all ad valorem taxes now levied or hereafter levied by the State of Alabama or by any county or municipality. No additional assessment shall be added to the surface value of such lands by the presence of oil or gas thereunder or its production therefrom.

(b) For the purpose of this article, the area of a lease or leases, including oil and gas rights considered to be in production, or the area of any other producing property considered to be in production, shall include an oil or gas drilling unit as established by the State Oil and Gas Board of Alabama and shall be exempt from ad valorem taxation because of production from any one well.

§ 40-20-13

Collection and Disbursement of Additional Taxes

If the department is authorized by any other law to collect any further or additional taxes from producers, as herein defined, such taxes shall be collected in the same manner as the taxes herein provided, and the return of such taxes shall be included in the report for the taxes herein levied and provided. Such further or additional taxes shall be disbursed as authorized by such other law.

§ 40-20-14
Credits against tax for manufacturers of
direct reduced iron

(a) *Findings.* The Legislature finds and declares as follows:

(1) Certain industries ought to be encouraged to consume gas produced in the state by permitting producers of gas to obtain a credit against severance tax to the extent that the value of such credit results in the reduction of the cost of the gas to such industries.

(2) The granting of such a credit will encourage certain industries that are major consumers of gas to purchase gas from producers or intermediate suppliers that extract or purchase gas from wells in Alabama subject to the severance tax.

(3) Due to the fungible nature of gas and the commingling of gas from various sources that typically occurs in the transportation of gas through a network of shared pipelines, a DRI manufacturer should not be required to trace gas from its source in order to benefit from a cost reduction based on the credit, provided that it can be shown that at least the amount of gas with respect to which the credit is granted has been produced by the taxpayer, at least the amount of gas with respect to which the credit is granted is supplied to the DRI manufacturer, and in the case of an intermediate supplier, that the intermediate supplier has purchased at least the amount of gas with respect to which the credit is granted from the taxpayer and the intermediate supplier has sold at least the amount of gas with respect to which the credit is granted to the DRI manufacturer.

(4) 7.4% of the deemed taxable value of the gas is a reasonable approximation of the severance tax that is levied, collected and distributed to the General Fund of the state, being the severance tax levied by Section 9-17-25 plus the severance tax levied by this article on gas produced from wells on submerged lands.

(b) *Definitions.* The following terms, as used in this section, are defined as stated below:

(1) **CAPITAL COST.** The cost for federal income tax purposes of the DRI plant determined upon plant completion, as certified by the DRI manufacturer to the department, determined without regard to depreciation or amortization of any kind.

(2) **DEEMED TAXABLE VALUE.** The gas amounts, as shown on the monthly tax forms O&G Production-2 or O&G Offshore-2, in the column labeled "PRODUCER'S NET TAXABLE VALUE" divided by the gas amounts in the column labeled "PRODUCER'S LIABILITY-VOLUME."

(3) **DRI.** Direct reduced iron, being iron produced from iron ore by chemical reaction with gas.

(4) **DRI MANUFACTURER.** A manufacturer of DRI at a DRI plant in a process utilizing gas, provided that:

a. As of the date of plant completion, the manufacturing process takes place on a site owned by the Alabama State Docks Department;

b. As of the date of plant completion, the DRI manufacturer has engaged the Alabama State Docks Department to provide cargo handling services with respect to iron ore that provides the raw material for the production of the DRI; and

c. The production of DRI in the state by the DRI plant commenced no earlier than October 1, 1997.

(5) **DRI PLANT.** The land, buildings, facilities, equipment, leasehold improvements, and other tangible property, real or personal, owned or leased by the DRI manufacturer for the purpose of producing DRI.

(6) **GAS.** Ass natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in Section 40-20-1(4).

(7) **GAS CONSUMPTION VOLUME.** For any reporting period, an amount, stated in mcf, equal to the lesser of the following:

a. The amount of gas consumed by the DRI manufacturer at the DRI plant, as certified by the DRI manufacturer to the taxpayer, or

b. Either

1. If gas is supplied by the taxpayer to the DRI manufacturer, the amount of gas supplied by the taxpayer to the DRI manufacturer, or

2. If gas is supplied by an intermediate supplier to the DRI manufacturer, the lesser of

(i) the amount of gas sold by the taxpayer to the intermediate supplier, or

(ii) the amount of gas supplied by the intermediate supplier to the DRI manufacturer.

(8) **INTERMEDIATE SUPPLIER.** Any person that a. purchases gas from a taxpayer or from another intermediate supplier that in turn purchased from a taxpayer and b. supplies gas to a DRI manufacturer.

(9) **MCF.** The volume of gas, measured in units of one thousand cubic feet, using the same temperature, pressure, and heating value as the gas reported on the producer's monthly severance tax returns.

(10) **NET PRESENT VALUE.** Discounted present value, determined as of plant completion, at an interest rate of 6% per annum, of reductions in the cost of gas as described in subdivision (8) of subsection (e) realized by a DRI manufacturer with respect to a DRI plant.

(11) **PERSON IN CHARGE OF PRODUCTION OPERATIONS.** The person in charge of the production operations, as such term is used in Section 40-20-3.

(12) **PLANT COMPLETION.** The date, as certified to the department by the DRI manufacturer, that a DRI plant is completed.

(13) **REPORTING PERIOD.** The period of time with respect to which severance taxes are calculated, returns are filed, and severance taxes are periodically paid, being each calendar month under current law.

(14) **SEVERANCE TAX.** The annual privilege tax levied by Section 40-20-2 on the production or severance of gas and the tax levied by Section 9-17-25 on natural gas produced for sale, transport, storage, profit or for use from any well or wells in the state.

(15) **SEVERANCE TAX CREDIT.** For any reporting period, 7.4% of the deemed taxable value multiplied by the gas consumption volume.

(16) **TAXPAYER.** Any producer or person in charge of production operations or any other person that is otherwise required to deduct, withhold, pay, or account for severance tax on gas produced and sold to an intermediate supplier or a DRI manufacturer, provided that with respect to any reporting period, such taxpayer:

a. Is obligated to pay severance tax, or would be so obligated but for the provisions of this section; and

b. Has entered into an agreement with a DRI manufacturer and/or an intermediate supplier, if applicable, to reduce the cost of gas sold by the taxpayer to the DRI manufacturer or, if applicable, the intermediate supplier by an amount equal to the severance tax credit for such reporting period.

(c) *Credits.* With respect to any DRI plant owned by a DRI manufacturer, a taxpayer shall be allowed a credit against severance tax otherwise owed with respect to the applicable reporting period equal to the severance tax credit. With respect to any DRI plant, this credit shall commence on the later of (1) June 1, 1998, or (2) plant completion, and shall continue until the net present value of the cost reductions of gas to the DRI manufacturer described in subdivision (8) of subsection (e) shall equal the lesser of (1) 4% of the capital cost of the DRI plant or (2) four million seven hundred thousand dollars (\$4,700,000).

(d) *Certificate.* Upon request by a DRI manufacturer, the department shall provide the DRI manufacturer with a

certificate, which shall be numbered and shall state (1) the lesser of a. 4% of the capital cost of the DRI plant or b. four million seven hundred thousand dollars (\$4,700,000), as appropriate, as certified to the department by the DRI manufacturer, and (2) the completion date of the DRI plant certified by the DRI manufacturer to the department.

(e) *Returns.* Any taxpayer claiming the severance tax credit for a reporting period shall file a schedule with its severance tax returns for such reporting period stating the following:

- (1) The number assigned by the department to the DRI plant.
- (2) The name of the DRI manufacturer.
- (3) The name of the intermediate supplier, if any.
- (4) The amount of gas, measured in mcf, supplied by the taxpayer to the DRI manufacturer or the intermediate supplier, as applicable.
- (5) The gas consumption volume certified to the taxpayer by the DRI manufacturer.
- (6) The deemed taxable value of the gas.
- (7) The amount of the severance tax credit.
- (8) A certification that the cost of the gas sold to the DRI manufacturer or intermediate supplier, as applicable, has been reduced by an amount equal to the severance tax credit.
- (9) A certification that the severance taxes calculated by the taxpayer have been determined on the deemed taxable value of the gas consumption volume without regard to the reduction in cost described in subdivision (8) of subsection (e), all in accordance with subsection (h).
- (10) A certification signed by an officer of the DRI manufacturer under oath, stating:
 - a. The lesser of 1. the amount of gas consumed by the DRI manufacturer in the DRI plant and 2. the amount of gas supplied to the DRI manufacturer by the taxpayer or intermediate supplier, as applicable as certified by the DRI manufacturer to the taxpayer;
 - b. The dates and amounts of the cost reduction in gas otherwise subject to Alabama severance tax liability realized by the DRI manufacturer with respect to the DRI plant by virtue of the severance tax credit from plant completion through the end of the severance tax period in question;
 - c. The net present value of the deemed taxable value reductions to the end of the severance tax period in question;
 - d. A certification that a cost reduction in an amount equal to the severance tax credit has been or has been agreed to be given over to the DRI manufacturer or to the intermediate supplier and from the intermediate supplier to the DRI manufacturer, if applicable; and
 - e. The name of the intermediate supplier.
- (11) The tax credit will be reported by the taxpayer as a one line reduction of the total severance taxes payable on the Department of Revenue, Sales, Use & Business Tax Division, Oil and Gas Offshore Producer's Tax Return forms, designated "O&G Offshore-1" and "O&G Production-1." The taxpayer will not be required to report the tax credit on any other Department of Revenue Sales, Use & Business Tax Division forms, schedules, supplements, or worksheets.
- (12) No additional forms will be required to be filed by the taxpayer with the Department of Revenue Sales, Use & Business Tax Division other than the schedule provided for in this subsection.

(f) *Multiple taxpayers or intermediate suppliers.* Should a DRI manufacturer or intermediate supplier acquire gas from more than one producer or person in charge of production that is otherwise subject to severance taxes, the DRI manufacturer may designate one or more than one such producer or person in charge of production as the taxpayer and

may allocate gas consumption volume certified to the taxpayer by the DRI manufacturer among all such designated persons on any basis elected by the DRI manufacturer, provided, however, that the gas consumption volume allocated to any taxpayer in the applicable reporting period shall not exceed the lesser of (1) the amount of gas subject to severance tax supplied by the taxpayer during the reporting period to the DRI manufacturer or intermediate supplier, or (2) the amount of gas which the intermediate supplier has received from the taxpayer and which is otherwise subject to Alabama severance tax liability during the reporting period. Should a DRI manufacturer acquire gas from more than one intermediate supplier, the DRI manufacturer may allocate gas consumption volume among all such intermediate suppliers on any basis elected by the DRI manufacturer, provided, however, that the gas consumption volume allocated to any intermediate supplier in any reporting period shall not exceed (1) the lesser of the amount of gas supplied by the intermediate supplier to the DRI manufacturer during the reporting period or (2) the amount of gas the intermediate supplier received from the taxpayer, which amount is otherwise subject to the severance tax.

(g) *Effect on allocation and distribution.* The amount of the severance tax credit shall be charged against the net amount of tax revenues payable to the State General Fund under Sections 9-17-31 and 40-20-8 and shall not reduce the amount of severance tax revenues allocated and distributed to any county, municipality, school board, or custodian of school funds.

(h) *No effect on severance tax base.* In determining the amount of severance tax liability for any reporting period, no taxpayer shall reduce the taxable value of gas by the amount of the severance tax credit or the cost reduction to the DRI manufacturer or intermediate supplier, as applicable, resulting from the severance tax credit, but rather, the severance tax credit shall be allowed and calculated only after determination of the amount of the severance tax otherwise payable for the reporting period and before any cost reduction under this section.

(i) The provisions of this section shall expire as to DRI plants having a completion date after September 30, 2008, unless the provisions of this section shall be extended by further act of the Legislature.

(j) This section shall be construed liberally in favor of the DRI manufacturer, for the purpose of assuring that any qualifying DRI manufacturer receives the benefit of the cost reduction described in this section. (Act 98-285, §§ 1, 2, 5.)

Chapter 17
OIL AND GAS
Conservation and Regulation of Production
Article1

| SECTION | TITLE |
|----------------|---|
| 9-17-25 | Tax for expenses of administration and enforcement of article - Levied; payment |
| 9-17-26 | Tax for expenses of administration and enforcement of article - Records, returns and remittances of producers; determination of gross value at point of production; rules and regulations |
| 9-17-27 | Tax for expenses of administration and enforcement of article - Recovery of tax improperly collected |
| 9-17-31 | Tax for expenses of administration and enforcement of article - Disposition and expenditure |

§ 9-17-25
Tax For Expenses of Administration and Enforcement
of Article Levied; Payment

(a) For the purpose of defraying the expenses connected with the administration and enforcement of this article, including the expense of the inspections, tests, analyses and all other expenses connected with the supervision and protection of crude petroleum oil and natural gas in the State of Alabama, there is hereby levied on the producer a tax equal in amount to two percent of the gross value, at the point of production, of the crude petroleum oil or natural gas produced for sale, transport, storage, profit or for use from any well or wells in the State of Alabama. Provided, however,

that natural gas lawfully injected into oil or gas pools or reservoirs in the soil or beneath the soil or waters of the State of Alabama is exempt from this tax. Provided, further, that natural gas lawfully injected into the earth for the purpose of lifting oil or gas in the State of Alabama is exempt from this tax. However, if any gas so injected into the earth is sold for such purposes or injected into underground storage facilities as defined in **Section 9-17-150** et. seq., then the gas so sold or injected shall not be exempt from this tax. Natural gas lawfully vented or flared in connection with the production, treatment, or processing of oil or gas is exempt from the tax. The tax shall be paid to the Department of Revenue directly by the purchaser when authorized in writing by the producer, and, when so paid, the producer or person in charge of production shall be relieved of any further liability.

(b) For any well for which the initial permit issued by the Oil and Gas Board is dated on or after July 1, 1996, and before July 1, 1999, except a replacement well for a well for which the initial permit was issued by the Oil and Gas Board is dated before July 1, 1996, the applicable rate of tax levied pursuant to subsection (a) shall be one percent for a period of five years commencing with commercial production, after which subsection (a) shall apply.

History: Acts 1984, No. 84-661; Acts 1994, No. 94-367; Acts 1996, 2nd Ex. Sess., No. 96-877.

Effective date. Acts 1996, 2nd Ex. Sess., No. 96-877, effective July 30, 1996.

1996, 2nd Ex. Sess., amendments. Added the subsection (a) designation, and added subsection (b).

Cross references. This law is referred to in: 9-17-1, 9-17-26, 9-17-27, 9-17-31, 9-17-156.

§ 9-17-26

Tax For Expenses of Administration and Enforcement of Article Records, Returns and Remittances of Producers; Determination of Gross Value at Point of Production; Rules and Regulations

(a) It shall be the duty of every person producing or in charge of production of crude petroleum or natural gas from any well or wells in the state of Alabama for sale, transport, storage, profit or for use to keep and preserve such records of the amount of all such crude petroleum oil or natural gas produced for sale, transport, storage, profit or for use as may be necessary to determine the amount of the tax for which he is liable under the provisions of **Section 9-17-25**.

(b) It shall be the further duty of every such person to file with the department of revenue, not later than the fifteenth day of the second calendar month following the month of production, a return, subscribed by the person who completes such return, which must contain a printed declaration that it is made under the penalty of perjury, showing the amount of crude petroleum oil or natural gas produced for sale, transport, storage, profit or for use during the second preceding month, to compute on the return the amount of tax charged against him in accordance with the provisions of **Section 9-17-25** and to transmit to the department of revenue with such return a remittance covering the tax chargeable against him. The return shall contain such other information and shall be in such form as the department of revenue shall designate.

(c) The department of revenue is authorized to determine the gross value at the point of production in accordance with customary practice.

(d) The department of revenue is hereby authorized to promulgate reasonable rules and regulations relating to the administration and enforcement of this article provided, however, that no rule or regulation adopted or promulgated by the department shall alter, limit, extend or be out of harmony with any of the provisions of this article.

History: Acts 1981, No. 81-703; Acts 1991, 1st Ex. Sess., No. 91-798.

§ 9-17-27

Tax For Expenses of Administration and Enforcement of Article Recovery of Tax Improperly Collected

In the event that any collection of tax is improperly made in an effort to enforce the provisions of **section 9-17-25**, either as a result of a mistake of law or fact, the amount so paid may be recovered in the same manner as is provided by law for the recovery of other taxes erroneously paid directly to the department of revenue.

§ 9-17-31
Tax For Expenses of Administration and Enforcement
of Article Disposition and Expenditure

All funds collected pursuant to the two percent tax levied on the producer of crude petroleum oil or natural gas produced for sale, transport, storage, profit or for use, from any well or wells in the state of Alabama, as is provided in **Section 9-17-25**, shall be deposited in the state treasury to the credit of the general fund and shall be expended only in the manner provided by appropriation by the legislature.

| SECTION | TITLE |
|--------------|--|
| 40-20-50 | County Oil and Gas Severance Tax Trust Funds |
| Act No. 2120 | Baldwin County Severance Tax |

§ 40-20-50
Collection of severance taxes; deposit into fund;
distribution of investment income; trustees;
escrow agents; limitations

Any laws or parts of laws to the contrary notwithstanding, any annual privilege tax levied upon persons engaging in the business of producing or severing oil or gas or other hydrocarbons from the soil or waters of this state measured by the gross value of such oil or gas or other hydrocarbons and which tax is applicable only in a particular county and under which collections were being made on January 1, 1987, or which shall hereafter be levied pursuant to legislative act, shall be continued and collected only as herein prescribed:

(1) All revenues collected from such local severance taxes shall, beginning the first day of the month following August 3, 1987, be paid into the general fund of the county exclusively for transfer and deposit into a trust fund hereby established until the total sum of \$15,000,000 in severance tax revenues of the type described in this section, excluding any interest income on amounts deposited therein from such total sum, has been deposited into such trust fund. Upon the deposit into said trust fund of a county of a total of \$15,000,000 in such severance tax revenues, any local law authorizing or levying such tax, including, without limitation, Act No. 2120, H. 2450, Regular Session 1971 (Acts 1971, Vol. V, p. 3399), shall stand repealed and no further taxes shall be levied thereunder. Any such local oil and gas severance tax revenues in excess of such \$15,000,000 amount collected in any county after the time the total of such tax proceeds paid into such trust fund established hereby for such county shall reach \$15,000,000, shall be refunded as promptly as shall be reasonably practicable to the payers thereof. The county governing body shall not be authorized to make any expenditure from any monies composing the corpus of said trust fund so long as it shall remain in existence. Said trust fund shall be designated in each county as the "county oil and gas severance tax trust fund," and is hereinafter referred to as the "trust fund."

(2) Commencing with the first year in which any trust fund provided for in this section shall receive deposits as required hereunder, and in each year thereafter, the county governing body shall take steps to ensure that the trust fund shall retain the total severance tax revenues paid therein plus ten percent of any net income or interest generated by the investment of such severance tax revenues, which sum shall be and become a part of the corpus of the trust fund. A sum, not to exceed 90 percent of the net income or interest thereby generated from said investments, shall be distributed quarterly, semiannually or annually, as designated by the trustees of the trust, to the general fund of the county for which a trust fund is established pursuant to this section.

(3) The county governing body shall constitute the trustees of the trust, provided, however, that the said governing body may in its discretion appoint one or more trustees or escrow agents for the trust, which trustees or escrow agents shall be trust companies or national or state banks having powers of a trust company within or without the State of Alabama. The trustees shall invest the corpus of the trust only in direct general obligations of, or obligations the payment of the principal of an interest on which are unconditionally and irrevocably guaranteed by, the United States of America. Provided, however, that notwithstanding any legal limitation that might otherwise be applicable, the trustees shall further have the authority in their discretion to invest such trust fund in certificates of deposit of any savings and loan associations or banks, whether federally or state chartered, whose principal office is located in this state, provided that such funds so invested are fully secured by pledges of securities of the

type described in the immediately preceding sentence hereof.

(4) Upon the deposit into a trust fund established pursuant to this section of the total sum of \$15,000,000 in severance tax revenues of the type described in this section, excluding any interest as income in such total sum, and the consequent repeal of the local law authorizing or levying such tax, the county governing body of a county for which a trust fund established hereunder shall be in existence shall be thereafter prohibited from levying or collecting, directly or indirectly, any local county severance tax of the type described in this section that was in existence prior to January 1, 1987, or that may be established hereafter, and any act authorizing such county oil and gas severance tax shall thereafter stand repealed.

History: Acts 1987, No. 87-629.

Related statutes. Acts 1987, No. 87-629, § 2: "It is specifically provided that this act shall not be construed to repeal or be in any way deemed amendatory of any of the provisions of Article 1 of **Chapter 20 of Title 40**, Code of Alabama 1975, as amended."

Acts 1987, No. 87-629, § 3: "The provisions of this act are inseparable and non-severable and if any section, clause or provision of this act shall be declared unconstitutional or invalid the entire act shall be void and be inoperative and have no effect."

Baldwin County Act No. 2120

To levy in Baldwin County a county privilege tax upon every person engaging in the business of producing or severing oil or gas or other hydrocarbons from the soil or the waters, or from beneath the soil or the waters of Baldwin County, which tax shall be in addition to all other taxes including the state oil and gas tax levied by Act No. 2, H. 47, approved May 19, 1945 (Gen. Acts 1945, p. 20); to provide for the collection and enforcement of the tax by the state department of revenue in the same manner as the state oil and gas tax and to incorporate by reference certain provisions of said Act No. 2 with respect to assessments, and the time and manner of making reports and payments and the provisions thereof prescribing penalties for violations; to authorize the state revenue department to make rules and regulations to effectuate the purpose of this act; to provide that the revenue derived from the tax shall be paid into the General Fund of Baldwin County; and to prescribe additional penalties for certain violations.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) The word "department" means the state department of revenue. (b) The word "county" means Baldwin County, Alabama. (c) The word "annual" means the calendar year, of the taxpayer's fiscal year, when permission is obtained from the department to use a fiscal year as a tax period in lieu of a calendar year. (d) The word "value" means the sale price or market value at the mouth of the well. If the oil or gas is exchanged for something other than cash, or if there is no sale at the time of severance, or if the relation between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the department shall determine the value of the oil or gas subject to the tax hereinafter provided for, considering the sale price for cash of oil or gas of like quality. (e) The word "oil" means crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the well. (f) The word "gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subsection (e) above. (g) The word "severed" means the extraction or withdrawing from the soil or water or from below the surface of the soil or water of any oil or gas, whether such extraction or withdrawal shall be by natural flow, mechanically enforced flow, pumping, or any other means employed to get the oil or gas from the soil or water or from below the surface of the soil or water. (h) The word "person" means any natural person, "firm, co-partnership, joint venture, association, corporation, estate, trust, any other group or combination acting as a unit, and the plural as well as the singular number. (i) The word "producer" means any person engaging or continuing in the business of oil or gas production in Baldwin County which, for the purpose of this act, includes the owning, controlling, managing, or leasing any oil or gas property or oil or gas well; and producing in any manner any oil or gas by taking it from the soil or waters, or from beneath the soil or waters of Baldwin County, and further includes receiving money or other valuable consideration as royalty or rental for oil or gas produced or because of oil or gas produced, whether produced, whether produced by him or by some other person on his behalf, either by lease, contract, or otherwise, and whether the royalty consists of a portion of the oil or gas produced being run to his account or a payment in money or other valuable consideration.

Section 2. (a) In addition to the state privilege tax levied upon persons engaging in the business of producing or

severing oil or gas or other hydrocarbons from the soil or waters of this state pursuant to Act No. 2, H. 47, approved May 19, 1945 (Gen. Acts 1945, p. 20), there is hereby levied, and to be collected as hereinafter provided, annual privilege taxes upon every person engaging or continuing to engage within Baldwin County, Alabama, in the business of producing or severing oil or gas as defined herein, from the soil or the waters, or from beneath the soil or the waters of said county for sale, transport, storage, profit, or for use. The amount of such tax shall be measured at the rate of one per cent of the gross value of said oil or gas at the point of production.

(b) The tax is hereby levied upon the basis of the entire production including what is known as the royalty interest, in Baldwin County, on which production the amount of such tax shall be a lien, regardless of the place of sale or to whom sold, or by whom used, or the fact that the delivery may be made to points outside the state or county; and the tax shall accrue at the time such oil or gas is severed from the soil or the waters, or from beneath the soil or waters of said county, and in its natural, unrefined or unmanufactured condition.

Section 3. (a) The privilege tax hereby imposed in Baldwin County is levied upon the producers of such oil or gas in the proportion of their ownership at the time of severance, but, except as otherwise herein provided, the tax shall be paid by the person in charge of the production operations in said county who is hereby authorized, empowered, and required to deduct from any amount due to producers of such production at the time of severance, the proportionate amount of the tax herein levied before making payments to such producers. The tax shall become due and payable as provided by this act; and shall constitute a first lien upon any of the oil or gas so produced when in the possession of the original producer or any purchaser of such oil or gas in its unmanufactured state or condition. In the event the person in charge of production operations fails to pay the tax, then the department shall proceed against the producer to collect the tax in the manner hereinafter provided by this act.

(b) When any person in charge of production operations shall sell the oil or gas produced by him, the purchaser shall account for the tax.

(c) When any person in charge of production operations shall use or dispose of the oil or gas for fuel or any other purpose, he shall withhold the tax imposed by this act; and, if he is required to pay other interest holders, he is hereby authorized, empowered, and required to deduct from any amounts due them the amount of tax levied and due under the provisions of this act before making payment to them.

(d) Every person in charge of production operations by which oil or gas is severed from the soil or waters, or from beneath the soil or waters, of said county who fails to deduct and withhold, as required herein, the amount of tax from sale or purchase price, when such oil or gas is sold or purchased under contract or agreement, or on the open market, or otherwise, shall be liable for the full amount of taxes, interest, and penalties due and the department shall proceed to collect the tax from the person in charge of production operations, under the provisions of this act, as if he were the producer of the oil or gas.

Section 4. The state department of revenue is hereby authorized and directed to administer and enforce the provisions of this act and to collect all of the taxes levied under the provisions herein. To that end said department is authorized to promulgate and enforce all necessary rules and regulations to effectuate the purposes of this act. All such rules and regulations duly promulgated shall have the force and effect of law.

Section 5. All laws, and rules and regulations of the department of revenue relating to assessments and the manner and time of payment of the tax levied by Act No. 2, H. 47, approved May 19, 1945 (General Acts 1945, p. 20), as amended, requiring reports from dealers and prescribing penalties for violations shall apply with equal force to the tax levied by this act as fully as if set out herein.

Section 6. The department of revenue is hereby authorized to charge the county for collecting the special tax levied by this act whenever said department incurs costs therefor which are in addition to the costs for collecting the state oil and gas tax levied by Act No. 2, H. 47, approved May 19, 1945, as amended. The amount charged shall be such amount as the commissioner of revenue and the county governing body shall agree upon, but shall not exceed ten percent of the amount collected. Such charges, if any, for collecting the taxes for the county may be deducted each month from the proceeds of the taxes collected before certifying the amount thereof due the county for that month. The commissioner of revenue shall pay into the state treasury all county taxes collected under this act, as such taxes are received by the department of revenue. On or before the tenth day of each successive month (commencing with the month following the month in which the department makes the first collections hereunder), the commissioner shall certify to the state comptroller the amount of taxes collected under the provisions of this act and paid by him into the state treasury for the benefit of Baldwin County during the month immediately preceding the making of such certificate. Provided, that before certifying the amount of taxes paid into the state treasury for the benefit of the county during each month, the commissioner may deduct from the taxes collected in such month any charges due the department for the

collection of the taxes for the county. It shall be the duty of the comptroller to issue his warrant each month payable to the Treasurer of Baldwin County, or such other person who is or might be the lawful custodian of said county in an amount equal to the amount so certified by the commissioner of revenue as having been collected for deposit by the Treasurer or custodian in the General Fund of Baldwin County.

Section 7. Any party making or participating in a false return made under the provisions of this act or incorporated herein shall be guilty of perjury and upon conviction shall be punished in the manner prescribed by law.

Section 8. If it is brought to the attention of the department that any producer is guilty of violating any of the provisions of this act, the department is hereby authorized and required, through lawfully authorized counsel, to proceed in the courts of the State to obtain a writ of injunction, which writ shall be granted by the court when applied for in the manner prescribed by law. The department, however, is hereby relieved of the requirement to furnish bond of any character.

Section 9. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 10. All laws or parts of laws which conflict with this act are repealed.

Section 11. This Act shall become effective October 1, 1972

Chapter 13
MINERALS SEVERANCE TAXES
1971 Coal Severance Tax
Article1

| SECTION | TITLE |
|----------|---|
| 40-13-1 | Definitions |
| 40-13-2 | Excise and privilege tax levied; rate of tax |
| 40-13-3 | Monthly report of producer |
| 40-13-4 | Monthly report of purchasers and transporters |
| 40-13-5 | Deposit of proceeds; disbursement and appropriation of funds |
| 40-13-6 | Further use and credit of proceeds to state general fund; report of coal shipped through seaport facility |
| 40-13-8 | Termination of tax |
| 40-13-9 | Political subdivisions of state prohibited from levying tax upon the excise or privilege of severing coal |
| 40-13-10 | Criminal penalties |

§ 40-13-1
Definitions

For the purposes of this article, the following terms shall have the respective meanings ascribed to them by this section:

- (1) **BONDS.** Any revenue bonds or notes that may at any time be issued by the Alabama State Docks Department pursuant to authorization in Act No. 64, p. 115, of the Alabama Legislature of 1971 (First Special Session), as same may be amended from time to time, for the purpose of constructing any seaport facility.
- (2) **COMMISSIONER.** The Commissioner of Revenue of the Department of Revenue of the State of Alabama.

- (3) **PERSON.** Any individual, firm, partnership, corporation, association, or any combination thereof.
- (4) **PRODUCER.** Any person engaging in the business of severing coal from the soil within this state.
- (5) **PURCHASER.** Any person acquiring title, outright or conditionally, to any interest in severed coal.
- (6) **SEVER.** Cutting, mining, stripping, or otherwise taking or removing from the soil within Alabama.
- (7) **SEAPORT FACILITY.** Any improvements, including any real or personal property, structure or equipment useful for any one or more of the loading, unloading, storage, or other handling of coal, coke, or any other materials or products of any kind that are useful in promoting, developing, and operating seaports within this state and that are constructed with the proceeds from the bonds as defined herein.
- (8) **TON.** A short ton of 2,000 pounds.
- (9) **TRANSPORTER.** Any person transporting coal from the place where it is severed or from any other place to any other place within or without the State of Alabama. (Acts 1945, No. 169, p. 285, § 1; Acts 1953, No. 695, p. 948, § 1; Acts 1955, No. 530, p. 1177.)

§ 40-13-2

Excise and privilege tax levied; rate of tax

There is hereby levied, in addition to all other taxes imposed by law, an excise and privilege tax on every person severing coal within Alabama. This tax shall be paid to the commissioner by every producer who severs coal within Alabama at the rate of \$.135 per ton of coal severed. (Acts 1971, No. 2305, p. 3719, § 2; Acts 1980, No. 80-645, p. 1217.)

§ 40-13-3

Monthly report of producer

Every producer shall, within 20 days after the end of each calendar month, whether or not he shall have actually severed any coal during the preceding month, file with the commissioner a report. The report shall set forth, in a form to be prescribed by the commissioner, the amount of coal in tons, if any, severed by such producer during the next preceding calendar month, the point of severance thereof, the amount of tax due and such other information as the commissioner may reasonably require for the proper enforcement of the provisions of this article. The producer shall accompany such report with payment of the full amount of the tax shown to be due. The said report shall be signed by the producer himself in the instance of any individual producer, and by a member or officer or the manager of the producer in all other instances. (Acts 1971, No. 2305, p. 3719, § 3.)

§ 40-13-4

Monthly report of purchasers and transporters

Purchasers and transporters of coal shall file a report with the commissioner, upon forms prescribed by the commissioner, within 20 days after the end of each calendar month. The report shall state the names and addresses of all producers from whom such purchaser or transporter has received coal during the respective said calendar month, the total quantity of coal so acquired and, in the case of a transporter, to whom and where each ton of coal was delivered, and such further information as the commissioner reasonably may require for the proper enforcement of the provisions of this article. The said report shall be signed by the purchaser or transporter himself, in the instance of an individual purchaser or transporter, and by a member or officer or the manager of the purchaser or transporter in all other instances. (Acts 1971, No. 2305, p. 3719, § 4.)

§ 40-13-5

Deposit of proceeds; disbursement and appropriation of funds

(a) The entire proceeds from the privilege or license tax levied by Section 40-13-2 shall be deposited in the State Treasury to the credit of the Alabama State Docks Bulk Handling Facility Trust Fund. The proceeds from the special handling charge provided for by Act No. 2306 of the 1971 Regular Session of the Legislature shall be deposited in the State Treasury to the credit of a fund to be created and known as the Special Handling Charge Fund.

(b) The amounts deposited into such funds shall be disbursed and are hereby appropriated to the extent necessary for such purpose, to pay at their respective maturities, or to redeem under the terms thereof, principal of and interest on any revenue bonds that may at any time be issued pursuant to authorization and any statute adopted at the 1971 Regular Session of the Alabama Legislature or at any other legislative session prior thereto for the purpose of constructing any seaport facility; provided, that amounts deposited into the special handling charge fund shall be first expended to the extent necessary for such purposes before any amounts are drawn from the Alabama State Docks Bulk Handling Facility Trust Fund.

(c) From the balance remaining in the Special Handling Charge Fund during each fiscal year there is hereby appropriated and there shall be paid by the State Treasurer into a reserve fund or funds established for the bonds until there is on deposit an amount equal to the maximum principal and interest becoming due on the bonds in any one year; to the extent that the balance remaining in the Special Handling Charge Fund is inadequate to fully fund the reserve fund, the reserve fund shall be funded from the Alabama State Docks Bulk Handling Facility Trust Fund.

(d) The balance thereafter remaining in the Alabama State Docks Bulk Handling Facility Trust Fund during each fiscal year shall be transferred as provided by Section 40-13-6.

(e) The balance, if any, in the Special Handling Charge Fund is hereby appropriated and shall be used by the State Treasurer to pay, at his discretion, principal and interest on the bonds in future years or to redeem portions of the bonds. (Acts 1971, No. 2305, p. 3719, § 5; Acts 1980, No. 80-645, p. 1217; Acts 1985, No. 85-648, § 1.)

§ 40-13-6

Further use and credit of proceeds to State General Fund; report of coal shipped through seaport facility

In each fiscal year when the funds then on deposit in the special fund or funds created for retirement of the bonds equal the amount needed to pay all the principal and interest becoming payable on the bonds within the succeeding 12 months and the funds then on deposit in the reserve fund or funds created for the bonds equal the maximum principal and interest becoming due on the bonds in any one year, the severance tax proceeds remaining in the Alabama State Docks Bulk Handling Facility Trust Fund, shall be credited to the State General Fund; provided however, that if at the end of any fiscal year of the state, beginning with the fiscal year ending September 30, 1987, the Director of the Alabama State Docks Department shall have notified the Director of Finance in writing, at least five days prior to the close of the fiscal year, that the revenues to be derived by the Alabama State Docks Department from the operations of its coal handling facilities for the then current fiscal year are anticipated to be insufficient to pay the aggregate of (1) the expenses (exclusive of depreciation) incurred in operating and maintaining the facilities during such fiscal year and (2) principal and interest that came due during such fiscal year on those bonds of the Alabama State Docks Department for payment of which the revenues have been pledged (which notification shall specify the amount of the expected deficiency), then the remaining severance tax proceeds shall remain in the Alabama State Docks Bulk Handling Facility Trust Fund and shall not be transferred to the State General Fund. Following the filing of such notification, a report shall be filed by the Director of the Alabama State Docks Department with the Director of Finance within 30 days after the close of such fiscal year, supported by such documentation as may be deemed appropriate by the Director of Finance and attesting to the amount of the actual deficiency, computed as described above, incurred in the operation of the facilities during the immediately preceding fiscal year. Upon receipt of the report and such other documentation from the department as the Director of Finance may specify, the Director of Finance, if satisfied as to the accuracy of the amount of the actual deficiency as reflected in the report and accompanying documentation, shall authorize to be transferred, and to the extent herein provided there is hereby in such event appropriated, to the Alabama State Docks Department an amount equal to the lesser of (i) the actual amount of any deficiency computed as described herein or (ii) the balance contained in the Alabama State Docks Bulk Handling Facility Trust Fund as of the immediately preceding September 30. Beginning with the 1992-93 fiscal year, the first three hundred thousand dollars (\$300,000) of any moneys remaining in the Alabama State Docks Bulk Handling Facility Trust Fund after such transfer to the Alabama State Docks Department shall be transferred directly to the Alabama Mining Academy. Five hundred thousand dollars (\$500,000) shall be transferred to the Tuscaloosa County General Fund; five hundred thousand dollars (\$500,000) to the Jefferson County General Fund; and two hundred thousand dollars (\$200,000) to the Walker County Economic and Industrial Development Authority and any remaining moneys shall be credited to the State General Fund. The Tuscaloosa County General Fund allocation shall be distributed as follows: One hundred thousand dollars (\$100,000) to the Town of Vance; one hundred thousand

dollars (\$100,000) to the Town of Brookwood; one hundred twenty-five thousand dollars (\$125,000) to the Tuscaloosa County Public Library; and one hundred seventy-five thousand dollars (\$175,000) to the Tuscaloosa County Board of Education. In any year in which the total amount allocated to the Tuscaloosa County General Fund, the Jefferson County General Fund, and the Walker County Economic and Industrial Development Authority is insufficient to provide the total allocations for the three, the amount that is available shall be prorated among the three in the same proportion as the designated allocations. In the event the Tuscaloosa County General Fund receives less than five hundred thousand dollars (\$500,000), the distributions to the Town of Vance, the Town of Brookwood, and the Tuscaloosa County Public Library shall collectively have priority. In the event the allocation to the Tuscaloosa County General Fund is less than three hundred twenty-five thousand dollars (\$325,000), the total amount available shall be prorated among the Town of Vance, the Town of Brookwood, and the Tuscaloosa County Public Library in the same proportion as the designated allocations.

Of the above amount to the Alabama Mining Academy, a small portion of said sum shall be used to retrain Alabama coal miners, who have been terminated from their employment, for other occupational opportunities. (Acts 1971, No. 2305, p. 3719, § 6; Acts 1980, No. 80-645, p. 1217; Acts 1985, No. 85-648, § 2; Acts 1993, No. 93-680, § 1.)

§ 40-13-8 Termination of Tax

The excise and privilege tax imposed by this article shall terminate on October 1, 2006, unless extended by an act of the Legislature of the State of Alabama. (Acts 1971, No. 2305, p. 3719, § 9; Acts 1985, No. 85-648, § 3; Acts 1990, No. 90-562, p. 956.)

§ 40-13-9 Political subdivisions of state prohibited from levying tax upon the excise or privilege of severing coal

No political subdivision of the State of Alabama, including counties, cities, special taxing districts or other taxing instrumentalities, shall levy a tax upon the excise or privilege of severing coal in Alabama. It is the intent hereof that all taxing authority upon the excise or privilege of severing coal as is granted in Section 40-13-2 shall inure to the State of Alabama exclusively. (Acts 1971, No. 2305, p. 3719, § 9A.)

§ 40-13-10 Criminal penalties

Any producer, purchaser or transporter who shall fail to comply with the provisions of this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100 nor more than \$500 for each such offense, and the willful filing of any false report shall constitute perjury and shall be punished as such. (Acts 1971, No. 2305, p. 3719, § 8.)

Chapter 13 1977 Coal and Lignite Severance Tax Article 2

| SECTION | TITLE |
|-----------------|---|
| 40-13-30 | Definitions |
| 40-13-31 | Levy and collection of excise and privilege tax; amount of tax |
| 40-13-32 | Deposit and distribution of proceeds of taxes collected generally |
| 40-13-33 | Computation of tonnage severed and distribution of taxes collected where police jurisdictions of municipalities overlap |
| 40-13-34 | Inspection of books of persons engaged in severing of coal or lignite; issuance of forms and making of rules, regulations and promulgations |

| | |
|-----------------|--|
| | by Department of Revenue generally; delinquent penalty |
| 40-13-35 | Penalty for violation of provisions of article |
| 40-13-36 | Construction of article |

§ 40-13-30 **Definitions**

When used in this article, unless the context plainly indicates otherwise, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) **PERSON.** Any individual, firm, partnership, corporation, association, or any other legal entity;
- (2) **SEVER.** Cutting, mining, stripping, deep mining, or otherwise taking or removing coal or lignite from the soil within the county;
- (3) **TON.** A short ton of 2,000 lbs.;
- (4) **FISCAL YEAR.** A 12 month period from January 1 through December 31;
- (5) **POLICE JURISDICTION AND MUNICIPAL LIMITS.** Such terms shall refer to police jurisdictions and municipal limits as such police jurisdictions and municipal limits existed on January 1, 1977. (Acts 1977, No. 598, p. 799, § 1.)

§ 40-13-31 **Levy and collection of excise and privilege tax;** **amount of tax**

Any laws to the contrary notwithstanding, the Department of Revenue is authorized and empowered to and shall levy and collect an excise and privilege tax on every person severing coal or lignite within the State of Alabama in an amount equal to \$0.20 per ton of coal or lignite severed. (Acts 1977, No. 598, p. 799, § 2.)

§ 40-13-32 **Deposit and distribution of proceeds of taxes collected generally**

The proceeds collected pursuant to the provisions of this article shall be deposited with the state Department of Revenue and shall be distributed by it at intervals of not more than 60 days as follows:

- (1) There shall be distributed to the governing body of each municipality within the police jurisdiction or municipal limits of which coal or lignite was severed an amount equal to 50 percent of the tax collected under this article from the severance of coal or lignite occurring within such police jurisdiction or municipal limits; and
- (2) There shall be distributed to the governing body of each county within which coal or lignite was severed other than within the police jurisdiction or municipal limits of a municipality an amount equal to 100 percent of the tax collected under this article from the severance of coal or lignite not severed within the police jurisdiction or municipal limits of a municipality, and, in addition, there shall be distributed to each such county 50 percent of the tax collected under this article from the severance of coal or lignite within the police jurisdiction or municipal limits of each municipality in such county within which there occurred the severance of coal or lignite. (Acts 1977, No. 598, p. 799, § 3.)

§ 40-13-33 **Computation of tonnage severed and distribution of taxes**

collected where police jurisdictions of municipalities overlap

In any case in which more than one municipality has, pursuant to the laws of the State of Alabama, police jurisdiction over an area, computations of tonnage severed and the distribution of taxes collected under this article shall be prorated equally among such municipalities with such overlapping police jurisdictions as to such area of overlapping jurisdictions only. (Acts 1977, No. 598, p. 799, § 4.)

§ 40-13-34

Inspection of books of persons engaged in severing of coal or lignite; issuance of forms and making of rules, regulations and promulgations by Department of Revenue generally; delinquent penalty

(a) The relevant books of every person engaged in the severing of coal or lignite in the State of Alabama shall be open to inspection by duly authorized agents of the Department of Revenue selected or appointed for the purpose of aiding in the collection and enforcement of the tax imposed by this article.

(b) The Department of Revenue is authorized and empowered to issue such forms and to make reasonable rules, regulations and promulgations as may be necessary to enforce and collect the tax imposed by this article, including the imposition of a delinquent penalty not to exceed 10 percent of the amount of such tax; provided, however, that such penalty may be waived by the Department of Revenue if a good and sufficient reason therefor is shown. (Acts 1977, No. 598, p. 799, § 5; Acts 1992, No. 92-186, p. 349, § 32.)

§ 40-13-35

Penalty for violation of provisions of article

Any person who shall fail to comply with the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$5,000 for each such offense. (Acts 1977, No. 598, p. 799, § 6.)

§ 40-13-36

Construction of article

The provisions of this article are supplemental and shall be construed in pari materia with Article 1 of this chapter and Act No. 906, H. 1867, 1975 Regular Session (Acts 1975, p. 1803) as amended by Act No. 368, S. 262, Regular Session of 1976, and any other laws regulating excise and privilege taxes on the severance of coal or lignite; provided, however, that those laws or parts of laws, including specifically any laws imposing or authorizing local, county, municipal, or other severance taxes, except as set out in this section, on coal or lignite, are hereby repealed and all counties, municipalities, and taxing authorities now or hereafter existing in the State of Alabama are prohibited from enacting and implementing any excise or privilege tax on any person severing coal or lignite within the State of Alabama. (Acts 1977, No. 598, p. 799, § 7.)

Chapter 13
FOREST PRODUCTS
Privilege & Severance Taxes
Article 4

| SECTION | TITLE |
|----------------|---|
| 9-13-80 | Definitions |
| 9-13-81 | Levy of severance tax; lien upon forest products, etc., for payment of tax |
| 9-13-82 | Rates; additional privilege tax upon processors of or manufacturers using forest products; taxation of round wood pulpwood converted into chips |

| | |
|-----------------|--|
| 9-13-83 | Exemptions from taxes |
| 9-13-84 | Payment and disposition of taxes generally; special state forestry fund; appropriation of tax receipts for use of state forestry commission |
| 9-13-85 | Expenditures for forest protection |
| 9-13-86 | Filing of quarterly reports and payment of taxes--Manufacturers of forest products or owners of concentration yards; failure or refusal to collect tax from seller; refunds, etc., of tax collected from seller; penalties |
| 9-13-87 | Filing of quarterly reports and payment of taxes--Producers of forest products shipping, etc., same out of state in unmanufactured condition |
| 9-13-88 | Maintenance of records, books and accounts by manufacturers, concentration yards and producers shipping forest products out of state in unmanufactured condition |
| 9-13-90 | Failure to make reports or maintain records |
| 9-13-93 | When taxes delinquent |
| 9-13-99 | Lien upon property for payment of taxes, interest and penalties |
| 9-13-103 | Proceedings as to persons designing to engage in acts prejudicial to collection of taxes, etc. |
| 9-13-104 | Reports of transporters of forest products--Required |
| 9-13-105 | Reports of transporters of forest products--Failure to make report |
| 9-13-106 | Payment of taxes by counties or municipalities purchasing forest products |
| 9-13-107 | Forest products to which taxes imposed by article applicable |
| 9-13-108 | Taxes upon the excise or privilege of severing, processing, or manufacturing of forest products |

§ 9-13-80 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) **PERSON.** Such term includes any individual, firm, copartnership, association, corporation, receiver, trustee or any other group or combination acting as a unit.
- (2) **DEPARTMENT.** The department of revenue of the state of Alabama.
- (3) **TAXPAYER.** Any person liable for taxes under this article.
- (4) **PRODUCER.** Any person engaging or continuing to engage in this state in the business of severing timber or any other forest products from the soil, whether as owner, lessee, concessionaire or contractor. Such definition shall also include any person who assembles or causes to be assembled any forest product for shipment out of the state of Alabama in an unmanufactured condition.
- (5) **FOREST PRODUCTS.** Logs, timber, pulpwood, chemical wood, bolts, crossties and switch ties, mine ties, coal mine props, ore mine props, poles, piles, turpentine (crude gum) and stumpwood (tarwood).
- (6) **SEVER.** To fell, cut or otherwise separate from the soil; provided, that for the purpose of this article, any person who is the owner or lessee of timber and is also the processor thereof or a manufacturer of products derived therefrom shall be deemed the person engaged in severing such timber from the soil, notwithstanding the fact that the severance is made by an independent contractor or otherwise.

(7) **COMMISSIONER.** The commissioner of revenue of the state of Alabama.

(8) **MANUFACTURER.** As applied to forest products suitable for manufacture into lumber, the person who operates the sawmill or plant in which such products are so manufactured into lumber; as applied to pulpwood, chemical wood and bolts, the person who operates the paper mill, chemical plant or other plant in which such forest products are processed; as applied to crossties, switch ties, mine ties, props, poles and piles, the person who purchases from the producer; as applied to turpentine, the person who processes or cooks the crude gum; as applied to stumpwood, the person who operates the plant or retort in which such product is processed.

(9) **CONCENTRATION YARD.** A place where lumber is brought or received within the state of Alabama in a green or rough form or condition for manufacturing or for processing or for resale. (Acts 1945, No. 169, p. 285, § 1; Acts 1953, No. 695, p. 948, § 1; Acts 1955, No. 530, p. 1177.)

§ 9-13-81
Levy of severance tax;
lien upon forest products, etc.,
for payment of tax

To provide further for conservation of the natural resources of the state by protection of the forest products and development of the forestry program, there is hereby levied and shall be collected as provided in this article a privilege tax on account of the business activities upon every person engaging or continuing to engage in the state in the business of severing timber or any other forest products from the soil for sale, profit or commercial use whether as owner, lessee, concessionaire or contractor. The privilege tax imposed by this article is in addition to other taxes now levied and shall be known as the forest products severance tax. Said tax, together with interest and penalties imposed by this article, shall be a lien upon the forest products so severed and upon the product or products manufactured therefrom until the tax imposed by this article with respect to such forest products shall have been paid or until such forest products or the products manufactured therefrom shall have been sold by the manufacturer thereof, but the lien of such tax shall not be enforceable against the bona fide purchaser from the manufacturer of any such forest products or of the products manufactured therefrom. (Acts 1945, No. 169, p. 285, §2.)

§ 9-13-82
Rates; additional privilege tax upon processors of or
manufacturers using forest products; taxation of round
wood pulpwood converted into chips

(a) The measure of the tax is at the following rates:

(1) On pine lumber, \$0.50, per 1,000 feet board measure lumber tally. Where the timber is sold as logs and is not converted into lumber in Alabama, the rate shall be \$0.75 per 1,000 feet log scale (Doyle rule), except that logs under eight inches in diameter inside the bark at the small end shall be scaled as containing one foot log scale for each foot of length, or, at the election of the taxpayer, the rate shall be \$0.10 per ton (2,000 pounds).

(2) On hardwood, cypress, and all other species of lumber, \$0.30, per 1,000 feet board measure lumber tally. Where the timber is sold as logs and is not converted into lumber in Alabama, the rate shall be \$0.50, per 1,000 feet log scale (Doyle rule), except that logs under eight inches in diameter inside the bark at the small end shall be scaled as containing one foot log scale for each foot of length, or, at the election of the taxpayer, the rate shall be \$0.065 per ton (2,000 pounds).

(3) On pulpwood, chemical wood, and bolts, \$0.25, per standard cord of 128 cubic feet, or, at the election of the taxpayer, \$0.10 per ton (2,000 pounds).

(4) On crossties, \$0.015 per piece, or, at the election of the taxpayer, \$0.15 per ton (2,000 pounds), and on switch ties, \$0.025 per piece, or, at the election of the taxpayer, \$0.17 per ton (2,000 pounds).

(5) On mine ties and coal mine props, \$0.125 per 100 pieces, or, at the election of the taxpayer, \$0.15 per ton (2,000 pounds).

(6) On pine ore mine props, \$0.75 per 1,000 feet log scale (Doyle rule) and on hardwood ore mine props, \$0.50 per 1,000 feet log scale (Doyle rule), except that props under eight inches in diameter at the small end shall be scaled as containing one foot log scale for each foot or length, or, at the election of the taxpayer, \$3.125 per 1,000 lineal feet, or, \$0.15 per ton (2,000 pounds), regardless of species.

(7) On piling and poles, \$1.875 per 1,000 board feet (Doyle scale), or, at the election of the taxpayer, \$0.205 per ton (2,000 pounds).

(8) On turpentine (crude gum), \$0.15 per barrel of 400 pounds.

(9) On stumpwood (tarwood), \$0.125 per ton (2,000 pounds).

(10) On pulpwood chips, \$0.25 per 190 cubic feet, or, at the election of the taxpayer, \$0.10 per ton (2,000 pounds).

(b) There is also levied a privilege tax against the processor of the forest products or the manufacturer using the forest products in an amount equal to 50 percent of the tax on the severer as set out above. The privilege tax shall be collected in the same manner as the severance tax on the severer is collected. This tax is levied not only upon processors or manufacturers within this state but also upon out-of-state processors or manufacturers who obtain the timber within this state and ship it outside the state for completion of the manufacturing process. It is the legislative intent that this privilege tax is not to be levied in any manner upon the person owning the land from which the forest products are severed nor upon the person actually cutting the forest products but it is levied upon the processor processing the forest products or manufacturer using the forest products.

(c) Round wood pulpwood on which the tax has been paid shall not be subject to an additional tax when converted into chips, but the additional tax levied by subsection (b) of this section shall be paid by the person, firm, or corporation utilizing the chips in a manufacturing process. (Acts 1945, No. 169, p. 285, § 3; Acts 1955, No. 385, p. 921; Acts 1967, No. 763, p. 1619; Acts 1973, No. 500, p. 738; Acts 1985, No. 85-700, p. 1141, § 1; Acts 1988, 1st Ex. Sess., No. 88-842, p. 315, § 1; Acts 1993, 1st Ex. Sess., No. 93-888, p. 158 § 2.)

§ 9-13-83 Exemptions from taxes

The taxes levied by this article shall not apply to nor shall such taxes be required of those individual owners of timber who occasionally sever or cut the same from their own premises to be utilized by them in the construction or repair of their own structures, buildings or improvements or for their home consumption or used by them in the processing of their farm products. (Acts 1945, No. 169, p. 285, § 4.)

§ 9-13-84 Payment and disposition of taxes generally; special state forestry fund; appropriation of tax receipts for use of state forestry commission

The taxes imposed by this article, and any other taxes imposed on the severance of forest products, shall be due and payable quarterly to the state department of revenue and shall, when collected, be paid by such department into the state treasury. When so paid into the state treasury, all such taxes shall be credited by the treasurer to a special fund which is hereby created and which shall be known as the special state forestry fund of the state of Alabama, which fund shall be disbursed under the supervision of the state forester, subject to the restrictions embodied in this article, for the purpose of carrying out the statewide forestry program as provided by law and for no other or different purposes. Not less than 85 percent of the taxes collected under and by virtue of this article shall be expended for forest protection. No portion of such fund shall revert to the general fund of the state at the end of any fiscal year, and any surplus shall be allowed to accumulate from year to year and be disbursed as exigencies of the statewide forestry program may require.

There is hereby continuously appropriated the receipts from the taxes levied in this article to the state forestry commission for the use of the state forestry commission. Such amount of money as shall be appropriated for each fiscal year by the legislature to the department of revenue with which to pay the salaries, the cost of operation and the management of the said department shall be deducted, as a first charge thereon, from the taxes collected under and

pursuant to said article; provided, however, that the expenditure of said sum so appropriated shall be budgeted and allotted pursuant to article 4 of chapter 4, Title 41 and limited to the amount appropriated to defray the expenses of operating said department for each fiscal year; provided further, however, that for the fiscal years ending September 30, 1989, and September 30, 1990, the portion of the receipts allocated to the forestry commission is hereby appropriated for use in their fire control program. (Acts 1945, No. 169, p. 285, § 5; Acts 1951, No. 843, p. 1474; Acts 1967, No. 763, p. 1619; Acts 1988, 1st Ex. Sess., No. 88-842, p. 315, § 1.)

§ 9-13-85

Expenditures for forest protection

The percentage of the funds expended under this article for forest protection for the protection of farm forest lands shall not be less than the percentage that the area of the farm forest lands of the state is of the total area of the forest lands of the state. The percentage of the funds expended under this article for each four-year period for the forest protection in any county shall not be less than 50 percent of the amount of the tax collected on forest products severed from the soil in such county together with the equal portion of any available matching funds. (Acts 1945, No. 169, p. 285, § 6; Acts 1967, No. 763, p. 1619.)

§ 9-13-86

Filing of quarterly reports and payment of taxes - Manufacturers of forest products or owners of concentration yards; failure or refusal to collect tax from seller; refunds, etc., of tax collected from seller; penalties

Every manufacturer of forest products shall, within 30 days after the expiration of each quarter annual period expiring, respectively, on the last day of March, June, September and December of each year, file with the department of revenue of the state of Alabama a statement under oath, on forms prescribed by the said department of revenue, showing the kinds of forest products and the gross quantity of each manufactured during the preceding quarter annual period by such manufacturer of forest products, showing the county or counties in which such products were severed from the soil and showing the gross quantity, if any, of such forest products severed from soil outside the state of Alabama and such other reasonable and necessary information pertaining thereto as the department of revenue may require for the proper enforcement of the provisions of this article. At the time of rendering such quarter annual reports, the manufacturer of forest products shall pay to the department of revenue the taxes imposed by this article with respect to all forest products severed from the soil in the state of Alabama and embraced in such report; provided, that in the case that any lumber is sold or delivered to a concentration yard as is defined in this article, then the taxes provided for in this article shall be reported and paid by the owner or owners of such concentration yard to the state instead of the manufacturer, but it shall be the duty of the owner or owners of any such concentration yard to collect the tax in all cases from the seller.

It shall be unlawful for the owner or owners of any such concentration yard to fail or refuse to collect the tax from the seller as aforesaid. It shall also be unlawful to refund or offer to refund all or any part of the tax collected by the owner of the concentration yard from a seller or to absorb or advertise directly or indirectly that the concentration yard will absorb or refund to the seller all or part of said tax. Any persons, firms, associations, corporations or copartnerships violating any of the provisions of this section or this article in said respect shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$50.00 nor more than \$100.00, or by imprisonment in the county jail for not more than six months or by both such fine and imprisonment, and each act in violation of the provisions of this article shall constitute a separate offense. (Acts 1945, No. 169, p. 285, § 7; Acts 1953, No. 695, p. 948, § 2.)

§ 9-13-87

Filing of quarterly reports and payment of taxes - Producers of forest products shipping, etc., same out of state in unmanufactured condition

Every producer of forest products who shall ship the same out of the state of Alabama in an unmanufactured condition or who shall sell such product for shipment outside the state of Alabama in an unmanufactured condition shall, within 30 days after the expiration of each quarter annual period expiring, respectively, on the last day of March, June, September and December of each year, file with the department of revenue a statement under oath, on forms prescribed by the department of revenue, showing the kinds of forest products and the gross quantity thereof severed from the soil in

Alabama and shipped or sold for shipment to points outside the state of Alabama in an unmanufactured condition, the county or counties in which such products were severed from the soil and such other reasonable and necessary information pertaining thereto as the department of revenue may require for the proper enforcement of the provisions of this article. At the time of rendering such quarter annual reports, such producer of forest products shall pay to the department of revenue the taxes herein imposed by this article upon the forest products embraced in said report. (Acts 1945, No. 169, p. 285, § 8.)

§ 9-13-88

Maintenance of records, books and accounts by manufacturers, concentration yards and producers shipping forest products out of state in unmanufactured condition

It shall be the duty of every manufacturer of forest products in this state and of every producer who shall ship forest products out of the state of Alabama in an unmanufactured condition and of every concentration yard as is defined in this article where any lumber is sold or delivered to it to keep and preserve suitable records with the items separated into the various items on which privilege taxes are levied in this article, and such other books or accounts as may be necessary to determine the amount of taxes for which he is liable under the provisions of this article. Said books and records shall be kept and preserved for a period of three years, and all such records shall be open for examination at any time by the department or its duly authorized agent. (Acts 1945, No. 169, p. 285, § 9; Acts 1953, No. 695, p. 948, § 3.)

§ 9-13-90

Failure to make reports or maintain records

Any person subject to the provisions of this article who shall fail to make the reports or any of them as required by this article or who shall fail to keep the records as required by this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$25.00 nor more than \$500.00 for each offense. Each month of such failure shall constitute a separate offense. (Acts 1945, No. 169, p. 285, § 11.)

§ 9-13-93

When taxes delinquent

The taxes provided in this article shall become delinquent after the date fixed for the filing of the quarter annual report to be filed in the office of the department of revenue. (Acts 1945, No. 169, p. 285, § 28.)

§ 9-13-99

Lien upon property for payment of taxes, interest and penalties

The taxes together with interest and penalties imposed by this article shall be a lien upon the property of any person subject to the provisions of this article, and the provisions of the revenue laws of the state of Alabama applying to liens for license taxes shall apply fully to the taxes levied by this article. (Acts 1945, No. 169, p. 285, § 19.)

§ 9-13-103

Proceedings as to persons designing to engage in acts prejudicial to collection of taxes, etc.

If the department finds that a person liable for taxes under any provisions of this article designs quickly to depart from the state or to remove his property therefrom, or to conceal himself or his property therein or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings are brought without delay, the department shall cause notice of such finding to be given such person together with a demand for an immediate return and immediate payment of such taxes. Thereupon such taxes shall become immediately due and payable. If such person is not in default in making such return or paying any taxes prescribed by this article and furnishes evidence satisfactory to the department under regulations to be prescribed by the department that he will duly return and

pay the taxes to which the department's finding relates, then such tax shall not be payable prior to the time otherwise fixed for payment. If such person fails to appear and make such showing, then the department shall make such assessment final and execution may immediately issue as is provided in this article. (Acts 1945, No. 169, p. 285, § 23.)

§ 9-13-104

Reports of transporters of forest products - Required

When requested by the commissioner, all transporters of forest products out of, within or across the state of Alabama shall be required to furnish said commissioner, under oath and upon forms prescribed by him, any and all information relative to the transportation of such forest products, and such reports shall contain, in addition to other required information, the name of the shipper, the date of shipment, the quantity and type or character of such forest products, stated in units or measurements applicable to such forest products, the point of receipt or shipment and the point of destination; provided, that in the case of common carriers using bills of lading or way bills prescribed or approved by the interstate commerce commission, such common carriers shall only be required to keep the usual records at the office or offices in this state where such records are usually kept. (Acts 1945, No. 169, p. 285, § 25.)

§ 9-13-105

Reports of transporters of forest products - Failure to make report

The failure of any person to make the transporter's report provided for in section 9-13-104 shall be punished by a fine of not less than \$50.00 and not more than \$500.00 for each offense. (Acts 1945, No. 169, p. 285, § 26.)

§ 9-13-106

Payment of taxes by counties or municipalities purchasing forest products

When the governing body of any county or municipality in the state shall purchase any forest products upon which the privilege taxes imposed by this article have not been paid, then the said governing body of said county or municipality shall withhold from the purchase price the amount of the taxes due and shall remit it to the department of revenue in the same manner as is required of other taxpayers. (Acts 1945, No. 169, p. 285, § 27.)

§ 9-13-107

Forest products to which taxes imposed by article applicable

The taxes imposed by this article shall apply to any forest products severed from land owned by either the state of Alabama or the United States of America, where the forest products severed enter commercial channels of trade for competitive markets. (Acts 1945, No. 185, p. 285, § 24.)

§ 9-13-108

Taxes upon the excise or privilege of severing, processing, or manufacturing of forest products

Any and all taxes upon the excise or privilege of severing, processing, or manufacturing of forest products shall inure to the state of Alabama and shall be exercised only in a uniform, statewide tax. No tax shall be levied by local law or by any political subdivision of the state, including counties, cities, special taxing authorities or other taxing instrumentalities, upon the excise or privilege of severing, processing or manufacturing of forest products in Alabama. (Acts 1988, 1st Ex. Sess., No. 88-842, p. 315, § 2.)

| SECTION | TITLE |
|------------------|--|
| 40-12-128 | Mining iron ore; tax |
| 40-12-129 | Mining iron ore; reports |
| 40-12-130 | Mining iron ore; statement of receipts |

§ 40-12-128
Mining iron ore; tax

Every person engaged in the business of mining iron ore or operating an iron ore mine in the State of Alabama shall pay to the State of Alabama a license or privilege tax by the twentieth of each month for the privilege of operating said iron ore mine during the current month in which such payment is due an amount equal to \$.03 per ton, of 2,240 pounds, on all iron ore mined during the last preceding month in which said mine was operated according to the run of the mine, whether such mine is an open mine or an underground mine, but no such tax shall be paid to any county in this state. Railroad weights shall govern where said iron ore is loaded on railroad cars in determining the amount of iron ore mined. In order that the industrial development of the state may be best preserved and promoted and in order that any deleterious effect of the tax levied in this section may be minimized, the Department of Revenue is authorized and empowered to lower, with the approval of the Governor, as in its knowledge of prevailing conditions may, from time to time prove expedient and advisable for the best welfare of the state, but not to raise, the rate on which the tax is computed. Any action by the state for the recovery of the tax levied under this section shall be commenced, or the assessment therefor made, within 12 months from the shipment by any means of such iron ore from the mine. Unless commenced within such period, the same shall be forever barred.

§ 40-12-129
Mining iron ore; reports

Every person, partnership, joint stock company, or association engaged in the business of mining iron ore or coal in this state shall, by the twentieth day of each month, make a report, duly sworn to before some officer authorized to administer oaths, to the Department of Revenue of the number of tons of iron ore or coal mined during the preceding month according to the run of the mine and where mined by such person in this state. Every person engaged in operating or assisting to operate in any capacity whatsoever any coal or iron ore mine in this state, upon the output of which a report has not been made as provided herein upon which the license or privilege tax has not been paid and is past due, shall be guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than \$10 nor more than \$500, and may also be sentenced to hard labor for the county for not more than six months.

§ 40-12-130
Mining iron ore; statement of receipts

Every person or corporation receiving coal or iron ore from any mine in this state for transportation or use shall render to the Department of Revenue by the twentieth day of each month a statement in writing, duly sworn to by some person having knowledge of the facts before some officer authorized by law to administer oaths, of the number of tons so received during the preceding month. Every person receiving coal or iron ore from any mine in this state and transporting the same in motor trucks shall, in addition to the above requirements, show to whom and where each ton of coal or iron ore was delivered. Every person or corporation receiving coal or iron ore from any mine in this state for transportation or use, who shall fail by the twentieth day of the succeeding month to render the statement required herein, shall be guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than \$10 nor more than \$500.

Other Applicable Code Sections

| SECTION | TITLE |
|----------------|--|
| 40-1-44 | Interest on Delinquent Taxes and Overpayments |
| 40-2A-2 | Legislative Intent, Scope and Procedures Exclusive |

40-2A-11**Alabama Taxpayers' Bill of Rights and Uniform Revenue Procedures Act****§40-1-44****Interest on delinquent taxes and overpayments**

(a) Interest shall be added as provided herein to any tax or other amount due the department which is not paid by the due date. Interest on any delinquency shall be charged from the due date of the tax, except (1) interest on delinquent license taxes levied under Chapter 12 of this Title 40 shall be charged from the delinquent date provided in subsection (e) of Section 40-12-10; and (2) interest on delinquent license tax and registration fees levied on motor vehicles shall be charged beginning after the period allowed for registration or renewal; and (3) interest on the freight lines and equipment companies tax levied in Section 40-21-52 shall be charged from the delinquent date thereof. Such interest shall be computed based on the underpayment rate established by the Secretary of the Treasury under the authority of 26 USC 6621.

(b) (1) Except as provided in subdivision (2) of this subsection (b), interest shall be paid by the department on any refund of tax erroneously paid directly to the department. Interest shall be computed on any overpayment from the date of overpayment to the department; except, a. interest on any refund resulting from a net operating loss carryover or carryback shall be computed from the date the claim giving rise to the refund is filed, b. interest on any overpayment of tax withheld and paid over to the state pursuant to Article 2 of Chapter 18 of this Title 40 and estimated tax paid pursuant to Section 40-18-83, shall be paid beginning 90 days after the due date of the return required by Section 40-18-27 for individuals, and Section 40-18-39 for corporations, or the date such return is filed, whichever is later. Interest as required above shall be computed at the same rate as provided herein for interest on underpayments.

(2) No interest shall be paid on any overpayment of the following taxes:

- a. Taxes paid by entities for which a refund is allowed by Sections 40-9-12 and 40-9-13;
- b. License taxes which are refunded pursuant to Sections 40-12-23 and 40-12-24;
- c. Gasoline taxes paid on gasoline used for agricultural purposes for which a refund is allowed by Division 3, Article 2, Chapter 17 of this Title 40;
- d. Gasoline taxes paid on gasoline used for the static testing of engines for which a refund is allowed by Division 4, Article 2, Chapter 17 of this Title 40;
- e. The motor fuels excise tax levied by Section 40-17-141 for which a refund or credit is allowed by Section 40-17-142; and
- f. The tobacco taxes levied by Chapter 25 of this Title 40. (Acts 1981, No. 81-258; Acts 1981, 1st Ex. Sess., No. 81-988, p. 174; Acts 1992, No. 92-186, § 19.)

§ 40-2A-2**Legislative intent, scope, and procedures exclusive**

(1) Legislative Intent. The legislative intent of this chapter is to provide equitable and uniform procedures for the operation of the department and for all taxpayers when dealing with the department. This chapter is intended as a minimum procedural code and the department may grant or adopt additional procedures not inconsistent with this chapter. This chapter shall be liberally construed to allow substantial justice.

(2) Scope. The provisions contained herein shall govern all matters administered by the department except as otherwise provided by law or by agreement entered into pursuant to lawful authority. However, nothing herein shall be construed to apply to the assessment of ad valorem taxes on real or personal property which is administered by the various counties of the State of Alabama, except that the determination and assessment of value of property of public utilities under Chapter 21 of Title 40, and the determination and assessment of value of corporate shares of stock under Article 4 of Chapter 14 of Title 40, shall be governed by the procedures set forth in this chapter.

(3) **Procedures Exclusive.** The department shall not be subject to the declaratory judgment, declaratory ruling or contested case provisions of the Alabama Administrative Procedure Act, Chapter 22 of Title 41. (Acts 1992, No. 92-186, § 2.)

§ 40-2A-11

Civil penalties levied in addition to other penalties provided by law

(a) **Failure to timely file return.** If a taxpayer fails to file any return required to be filed with the department on or before the date prescribed therefor (determined with regard to any extension of time for filing), there shall be assessed as a penalty the greater of 10 percent of any additional tax required to be paid with the return or fifty dollars (\$50.00).

(b) **Failure to timely pay tax.** If a taxpayer fails to pay to the department the amount of tax shown as due on a return required to be filed on or before the date prescribed for payment of the tax, determined with regard to any extension of time for payment, there shall be added as a penalty one percent of the amount of tax due if the failure to pay is for not more than one month, with an additional one percent for each additional month or fraction thereof during which failure to pay continues, not exceeding 25 percent in the aggregate. In lieu of the penalty provided in the immediately preceding sentence, for any tax for which a monthly or quarterly return is required, or for which no return is required, the department shall add a failure to timely pay penalty of 10 percent of the unpaid amount shown as tax due on the return or the amount stated in the notice and demand.

(c) **Underpayment due to negligence.** If any part of any underpayment of tax is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to five percent of that part of the tax attributable to negligence or disregard of rules or regulations. For purposes of this subsection, the term "negligence" includes any failure to make a reasonable attempt to comply with Title 40, and the term "disregard" includes any careless, reckless or intentional disregard.

(d) **Underpayment due to fraud.** If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of that portion of the underpayment which is attributable to fraud.

For purposes of this section, the term "fraud" shall have the same meaning as ascribed to the term under 26 U.S.C. Section 6663, as in effect from time to time.

(e) **Frivolous return penalty.** If a taxpayer files a "frivolous return," as that term is used in 26 U.S.C. Section 6702, that taxpayer may be liable for a penalty of up to two hundred fifty dollars (\$250.00).

(f) **Frivolous appeal penalty.** If any appeal to the administrative law division or circuit court is determined to be frivolous or primarily for the purpose of delay or to impede collection of any tax, a penalty of two hundred fifty dollars (\$250.00) or 25 percent of the tax in question, whichever is greater, shall be assessed in addition to any tax due.

(g) **Penalties not exclusive.** The penalties provided in this section for failure to timely file a return, failure to timely pay tax, filing a frivolous return, filing a frivolous appeal, or negligence may be asserted against the same taxpayer for the same tax period. If the fraud penalty is asserted, no other penalties shall be asserted.

(h) **Waiver of penalties.** Notwithstanding the foregoing, no penalty under Title 40 or Section 10-28-15.02 shall be assessed, or if assessed, shall be waived upon a determination of reasonable cause. Reasonable cause shall include, but not be limited to, those instances in which the taxpayer has acted in good faith. The burden of proving reasonable cause shall be on the taxpayer.

(i) **Discount sustained for just causes.** All other provisions of tax laws notwithstanding, the Commissioner of the Department of Revenue, upon review of the circumstances involved, may authorize continuance of a statute-allowable discount when timely payment is made, but filing is delayed for just causes.

(j) **Penalty and interest assessed as tax.** All penalties and interest administered by the department shall be assessed and collected in the same manner as taxes.

(k) **Penalty not to apply to registration and titling of motor vehicles.** The penalties provided herein shall not apply to the registration or titling of motor vehicles.

(Acts 1992, No. 92-186, § 10; Acts 1995, No. 95-607, § 2; Acts 1998, No. 98-637, §1.)

The 1998 amendment, retroactively effective October 1, 1997, added the new subsection (i).

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